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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/610,684 | 07/02/2003 | Scott Shepard | 02-4038 | 2914 |

25537 7590 05/20/2009

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| EXAMINER |
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BAKER, MATTHEW H

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| ART UNIT | PAPER NUMBER |
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2626

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| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

05/20/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/610,684</p> | <p>Applicant(s) SHEPARD ET AL.</p> | |
| | <p>Examiner Matthew Baker</p> | <p>Art Unit 2626</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Talivaldis Ivars Smits/
Primary Examiner, Art Unit 2626

/Matthew Baker/
Examiner, Art Unit 2626

Continuation of 11. does NOT place the application in condition for allowance because: The most recent arguments presented by Applicant are not convincing to traverse the final rejection mailed on 02/03/2009.

Applicant argues that Schulz does not teach translation (Remarks, p. 16). Any deficiencies of Schulz are taught by Foster.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use known methods to retrieve a textual representation of an audio signal for translation in Foster, since it would provide automatic transcription, saving transcription costs (Schulz, column 1 lines 27-34), while enabling a user to provide fast and accurate translation of speech data.

It would also have been obvious to one of ordinary skill in the art at the time of the invention to combine the known elements of audio and text synchronization with Foster, since the combination would produce the predictable result of enabling the user to quickly and easily translate and edit text displayed on the monitor, including identifying and correcting errors, without interruption during playback of the speech from an audio recording, as indicated in Schulz (column 5 lines 55-58).

Applicant argues that "the human translator may not complete the word solely by his/her keystrokes because the Foster disclosure (pg. 192) suggest that the machine is more likely than not to propose an acceptable word prior to the human translator finishing the translation of the word by himself/herself. (Remarks, p. 16)" Applicant should direct attention to Section 4-1 where it is made clear that "the computer assists the human, rather than vice versa," in other words the human is doing the translating while the machine offers suggestions. No translation is done by the machine without human input and confirmation, and the human is always given the option of translating without ever choosing a machine suggestion.

Applicant extends this argument (Remarks, p. 17-18) to clarify that the machine is a partner in the translation (Remarks, p. 17) and is working together with the human translator (Remarks, p. 18).

Directing attention to Section 4-2 of Foster, it is made clear that "the human translator issues directives...and the computer reacts to each with a revised proposal." Again, it is made clear that the human is the translator and the machine is providing suggestions.

Applicant argues that "Foster teaches translation actually made by a user-machine partnership. (Remarks, p. 19 ¶ 1). This is disputed, and Foster is interpreted as teaching a method of human translation which is assisted by computer suggestions (see Foster, section 4-1 and 4-2).

Applicant argues that Foster's marked improvement on translation speed means the translation is not actually made by the human. In using this method the user, without question, can complete 100% of the translation themselves (as opposed to the 30% cited repeatedly by applicant). The percentages cited on page 192 of Foster are meant to provide evidence of machine aid as beneficial to the method, but not necessary. Foster can be relied upon to teach translation "actually" made by a user.

Applicant argues that Schulz and Foster are not combinable. Schulz and Foster are in the same field of endeavor, natural language processing, and aim to create methods of transcribing speech. The result of Foster's audio and text synchronization produces a predictable result which flows naturally to provide Schulz transcribed text to synchronize on a display.

The remaining arguments are similarly unconvincing as they repeat the same argument as is reasoned for claim 1.